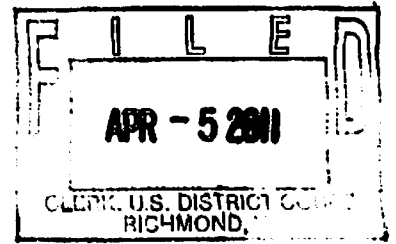


**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT  
OF VIRGINIA AT RICHMOND**



MARIO N. BAKER  
PETITIONER,

:

vs.

:

Case No(s): 3:08-CR-0008

**3:08CR088**

3:10-CV-00579

UNITED STATES OF AMERICA

:

RESPONDENT.

:

**MOTION FOR SUMMARY JUDGMENT PURSUANT TO FEDERAL RULES FOR CIVIL PROCEDURE – RULE  
56(e)(2); IN RELATION TO THE MOVANT’S FILED PETITION PURSUANT TO 28 U.S.C. § 2255**

Now comes, Mario N. Baker (hereinafter “Petitioner”) proceeding *Sui Juris* in this instant action. The gist of this action is in-fact a request for this Honorable Court to enter into a summary judgment in favor of Petitioner pursuant to Fed.R.Civ.P. – Rule 56(e) (2), in relation to Petitioner’s pending petition -- in this court -- pursuant to 28 U.S.C. § 2255.

Petitioner request that this Court take judicial notice pursuant to Fed.R.Evid. - Rule 201(b) (2),(d),(f) in relation to Petitioner’s attached affidavit to his memorandum of law , in support of his filed habeas corpus petition (28 U.S.C. § 2255). Furthermore, the Respondent (hereinafter “government”) has responded to Petitioner’s initial pleading, and Petitioner likewise has responded to the government’s pleading in this case. However, the government has indeed failed to rebut Petitioner’s affidavit point by point on its contained content.

Therefore, the content must be viewed as true, and this Court should rule in Petitioner's favor immediately, as a matter of law, as to the meritorious assertions, asserted in Petitioner's Petition (28 U.S.C. § 2255) and supporting memorandum of law with accompanying (unrebutted) affidavit. (See: Exhibit A) The government has yet to proffer any rebutting evidence to the contrary as to that asserted by Petitioner.

**CONCLUSION**

For the foregoing reason(s), this Honorable Court should grant summary pursuant to Fed.R.Civ.P. - Rule 56(e)(2).

I, Mario Baker, Mario N. Baker, declare under the penalty of perjury, under the law(s) of the United States, pursuant to 28 U.S.C. § 1746 that all of the foregoing is true, accurate and complete to the best of my knowledge and belief.

Respectfully Submitted,

Mario Baker

Mario N. Baker  
Reg. No.: 34194-183  
F.C.I., McDowell  
P.O. Box 1009  
Welch, WV. 24801

**CERTIFICATE OF SERVICE**

I, Mario Baker, Mario N. Baker, certify that I caused to be mailed via, United States Postal Service, copies of the foregoing to the following parties:

**(3) copies**

Clerk of Court  
United States District Court For The Eastern District of Virginia, Richmond Division  
701 East Broad Street  
Suite 3000  
Richmond, Virginia 23219

FOR THE EASTERN DISTRICT OF VIRGINIA

RICHMOND

Mario Nathaniel Baker,  
Petitioner,

vs.

Case No. 3:08-cr-0008  
08-4941

United States of America  
Respondent.

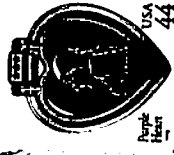
**Affidavit of Mario Nathaniel Baker**

Now Comes The Affiant, Mario Nathaniel Baker, who depose  
and say:

1. I am the Petitioner in the above reference case.
2. My attorney saw me on several occasions before trial, and he never discussed the ideal of filing a motion to suppress.
3. During one pretrial meeting, my attorney told me that my fingerprints weren't on the weapon in count (1), but the ballistic results weren't back on count(s): (2), (4), and (6). This pre-trial meeting took place well before my trial.
4. My attorney waited until the day of trial to tell me my fingerprints weren't on the weapon in count (4).
5. I wrote my attorney and told him to supplement the new intervening law Arizona V. Gant on my direct appeal before the Court of Appeals made their first decision.

I declare (or certify, verify, or state), under penalty or perjury, that the foregoing is true and correct.

Mario Baker # 34194-183  
Federal Correctional Institute-McDowell  
P.O. Box 1009  
Welch, W.V. 24801



McDOWELL  
MAIL

34194-183

Clerks Office  
701 E. Broad St. Ste. 3000  
Richmond, VA - 23219  
United States

2321931572

